

REMARKS

Claims 1, 4-11, 14, 18-22 are pending in the application and have been subjected to a restriction requirement. In the Office Action, a restriction requirement was issued between Claims 1, 4-11 and 18-21 (Group I), drawn to a method of raising serum DHEA levels in an individual, classified in class 424, subclass 484; and Claims 14-15 and 22 (Group II), drawn to a composition consisting of magnesium chloride, water, gelling agent and glycerin, classified in class 424, subclass 681. Applicant respectfully traverses.

The present restriction requirement was issued in the present application following a Request for Continued Examination, which included amendments to the original and previously presented claims. The restriction requirement was not made in response to added claims. According to the MPEP § 821.03 (37 CFR 1.145), a restriction requirement may be issued if there are claims added by amendment following an action by the Examiner, which claim an invention other than previously claimed. Only original claims or claims added prior to the July 11, 2007, Request for Continued Examination remain pending in the application. Therefore, Applicant submits that the restriction requirement is improper because claims to methods of raising serum DHEA levels and compositions consisting of magnesium chloride, water, gelling agent and glycerin were previously claimed. Applicants therefore respectfully request that the Examiner withdraw the present restriction requirement.

Applicants further submit that the present restriction requirement is improper because withdrawal will not result in the serious burden required under MPEP § 803. According to MPEP § 803, two criteria must be met for a restriction requirement to be proper. First, the inventions must be independent or distinct as claimed. Second, a serious burden must be imposed on the Examiner if the restriction is not required. As stated in MPEP § 803, "if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicant respectfully submits that the present restriction requirement fails to meet the second criterion and requests rejoinder of the claims of Groups I and II.

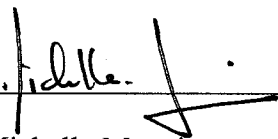
The Examiner has *already* conducted a search of the prior art relevant to claims directed to both methods of raising serum DHEA levels *and* magnesium compositions. Moreover, the Examiner has already examined claims belonging to both groups, as reflected in the Office Actions mailed on December 27, 2006, and May 11, 2007. Consequently, it would be unreasonable to suggest that the continued examination of both types of claims would now require a separate search and examination. Thus, it is clear that substantial prosecution on the merits has already occurred with respect to claims directed to method of raising serum DHEA and magnesium compositions. Therefore, the continued examination of both groups of claims does not present an additional burden.

For the reasons discussed above, Applicants respectfully submit that the continued examination of the restricted claims would not impose a serious additional burden on the Examiner. For this additional reason, Applicants respectfully request that the restriction requirement be withdrawn. Applicants further respectfully submit that all of the claims pending in the application are now in condition for allowance. Consequently, Applicants respectfully request that Examiner allow the application to issue. The Examiner is invited to contact the undersigned by telephone if it is thought that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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